

Minutes  
Catawba County Board of Commissioners  
Regular Session, Monday, October 16, 2006, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, October 16, 2006 at 7:00 p.m. in the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Dan Hunsucker and Commissioners Glenn E. Barger, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, Interim County Attorney Debra Bechtel, Attorney Anne Marie Pease and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.
2. Chair Barnes led the Pledge of Allegiance to the Flag.
3. Commissioner Lynn M. Lail offered the invocation.
4. Vice-Chair Dan Hunsucker made a motion to approve the minutes of the Regular Meeting of October 2, 2006. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed Commissioner candidate Clem Geitner and recognized that Commissioners Lail, Barger and herself were also candidates in the upcoming election.
6. Comments for Items not on the Agenda.  
Brenda Huggins and Laura Forbes from the Catawba County Outing Club and Kenyon Kelly from the Catawba Valley Heritage Alliance came forward to thank the Board for the two very fine parks in the County— Riverbend and Bakers Mountain – and applauded the competent, courteous staffing at both parks. They went on to request the Board consider funding in 2007 to allow the parks to operate on a full time schedule versus the four day a week current schedule (open Fridays, Saturdays, Sundays and Mondays). They stressed the parks' impact on education, health, general welfare, economy and recreation in Catawba County and the need for a full time park system. Chair Barnes thanked the presenters for their commitment to the Park System and said the request would be taken under consideration.
7. Presentations:
  1. The Board received a report from Cole Gurley, Assistant District Engineer for Catawba and Lincoln Counties with the North Carolina Department of Transportation, on the road paving priorities for Catawba County approved by the North Carolina Board of Transportation for fiscal year 2006-2007. Since North Carolina law gives the North Carolina Board of Transportation the authority to approve these projects, the Board of Commissioners received this report for information only. The proposed road paving priority for rural roads was in the following order: Walter Road; Beal Road; George/Coulter Grove Road; WCXN Radio Road and S & W Farm Road with rural road alternates of J.C. Road, Costner Drive and Glennoaks Drive. The proposed subdivision street paving priority was in the following order: Matthews St.; Ramblewood and Peninsula Drive with subdivision street alternates of Manor Street and Lawanna Drive. Paving will follow the priority list until all funds are exhausted. The total estimated cost for paving the roads and streets on this list is \$1,020,000 with various spot stabilization and secondary maintenance cost of \$120,000 with a total allocation for the 2006-07 paving priority of \$1,140,000. Commissioner Beatty asked if right of ways had been acquired and Mr. Gurley indicated that a majority had been. If right of ways could not be acquired or were delayed, the DOT would move on to the next street or road on the priority list. At Commissioner Beatty's request, Mr. Gurley explained the process of prioritizing the paving of these roads. He explained that every 20 years there is an unpaved road survey and DOT technicians go out and ride every unpaved road in Catawba and Lincoln County and weight factors are determined (such as length, average daily travel, school bus travel, number of homes on road, etc.) and each road will be assigned a certain number of points and those points determine the priority for the paving schedule. Chair Barnes asked that Mr.

Gurley explain the difference between the rural and subdivision categories on the priority list. Mr. Gurley stated the rural roads are basically dead-end roads in farmland or connector roads and subdivision roads are in areas that have been subdivided and have many more homes on them. Vice-Chair Dan Hunsucker made a motion to accept the Catawba County 2006-2007 Paving Priority List. The motion carried unanimously.

2. Scott Millar, President and Julie Pruett, Director, Non-manufacturing Recruitment of the Economic Development Corporation came forward to present the Board with growth opportunities in the data storage/information technologies sector and suggestions on how Catawba County could target the sector for future projects. Such projects would create jobs for graduates returning to Catawba County and local graduates of certificate programs, and recruit new graduates to this market. The Charlotte Regional Partnership and Duke Energy have begun a joint "Data Center Initiative" to market suitable regional sites and buildings nationally, as a result of a number of data projects underway. Projects are generally mega-investment, with a high quantity and quality of jobs. An existing Catawba Multi-Jurisdictional/Mega-sites Initiative offers the opportunity to create a "Data Park" site capable of hosting several users with the same infrastructure; a concept not currently being done elsewhere in the region or state. Three projects have already been submitted for data centers/IT assembly. This job sector was given "Most Favored" status in the most recent FORESIGHT Report, since the sector pays 209% of Catawba County's average wage and predictions call for 6.4% annual growth in the sector. Also, two of the least expensive markets for data center operation in the state are within an hour of Hickory, in Charlotte and Winston-Salem. Mr. Millar and Ms. Pruett discussed several strategies the EDC could use, including a 120 day analysis of true labor availability for the data center sector with required wages and sector needs, to develop a sales and planning tool usable for this and all recruiting through EDC; the possible use of a consultant to assess likely sites for the three projects already submitted and any potential buildings for feasibility for a Data Center/Park; complete an analysis of planning, land control, and infrastructure to determine development costs; model local and state incentives for sample projects; work with the Hickory Metro Higher Education Center, CVCC, and UNC Center to define and package a creative multi-partner approach for employee training; and prepare presentation materials and a PR strategy regarding a Data Park site. Mr. Millar recommended providing Julie Pruett with the training and experience through trade shows, etc. to become an expert in this field. He further stated he thought this was a very good opportunity for Catawba County and the Economic Development Corporation was going to press forward in this effort. Commissioner Beatty said she was excited about this because she had visited a tradeshow five or six years ago where people were being recruited for data centers and suggested finding the tradeshow that would be worthwhile to visit. Chair Barnes asked if there were any existing buildings in the County that would meet the needs of one of these centers and asked if the fact that the County didn't have spec type buildings available as in a multi-jurisdictional park was a drawback. Mr. Millar said he thought the County had a shortage of buildings – high quality building that could handle this type of opportunity – but said there was one building that might fit (Carolina Mills building in Maiden) with a substation right out in back and situated right in the middle of approximately 100 acres – but has slightly lower ceiling heights than preferred (the sector prefers 20+ foot ceilings). He indicated the consultant would be visiting that building. Commissioner Lail asked if the consultant Mr. Millar was meeting with was the one who would do the labor study and Mr. Millar said it would be done by a different consultant (probably The Pathfinders out of Dallas, TX) so that there was national input in the project. Vice-Chair Hunsucker asked what type of degrees would be preferable for employment in the field and Mr. Millar said programs that support the National Security Agency's certification for Information Assurance would be preferable to potential employers. The only institutions offering these programs currently are NC State and Chapel Hill. Commissioner Barger said this was exciting news for Catawba County and the great possibilities in this sector for the County's citizens and was highly supportive of the labor force study. Chair Barnes said that it was very clear that the consensus was strong support of this effort.

8. Appointments:

Vice-Chair Dan Hunsucker recommended the reappointment of Karyn Yaussy to a second term on the Community Service Block Grant Advisory Board and the appointment of Amber Shook for an unexpired term as a student representative on the Juvenile Crime Prevention Council. Commissioner Barbara Beatty recommended the reappointment of David Hood for a fourth term, J.V. Huffman for a second term and Richard Thompson for a fifth term on the Catawba County Board of Adjustment as

well as the appointment of Tommy Luckadoo for an unexpired term to replace Scott Rhoney who resigned to take a place on the Planning Board. Commissioner Beatty recommended the reappointment of John Blevin for a third term and Ron Valentini for a second term and the appointment of Danny Hearn and Sherry Butler for first terms on the Transportation Advisory Board. Commissioner Beatty also recommended the reappointment of Mike Morris for a fifth term on the Maiden Board of Adjustment. These recommendations came in the form of a motion. The motion carried unanimously.

9. Consent Agenda:

County Manager J. Thomas Lundy presented the following five items under the consent agenda:

a. Mental Health Budget Revision – an increase of state money for medical records software for substance abuse services and crisis services; decrease of \$214,728 of state dollars for the purchase of services for non-Medicaid covered children. The total increase to the Mental Health Budget is \$\$\$378,757 which is caused by appropriating Mental Fund Balance – ¼ of that fund balance is a pay back to the state and the balance is for new services - almost \$200,000 for services for youth for therapy and residential services and \$100,000 for Catawba Valley Behavioral Healthcare to assist with the purchase of the Connections building, content and property – this \$100,000 appropriation is anticipating a request that will be made to the Board in an upcoming meeting and the Board's anticipated approval. If the Board does not approve that purchase, that \$100,000 will stay in the Mental Health Fund Balance. The supplemental appropriations are as follows:

| <b>Account Number</b>                               |             | <b>Account Number</b>                                 |             |
|---|-------------|---|-------------|
| <b>Expenditures:</b>                                |             | <b>Revenues:</b>                                      |             |
| 110-530906-915560<br>Developmental Therapy          | (\$17,701)  | 110-530906-635200<br>Adult DD                         | (\$607,605) |
| 110-530906-915560<br>Developmental Therapy          | (\$70,803)  | 110-530906-635220<br>Developmental Therapy - Adult DD | \$483,536   |
| 110-530906-915950<br>CTSP Contracts                 | (\$214,728) | 110-530906-635300<br>Child DD                         | (\$138,585) |
| 110-530906-915615<br>Family N.E.T Contract          | \$68,132    | 110-530903-635320<br>Developmental Therapy -Child DD  | \$120,884   |
| 110-530906-915610<br>CVBH Contract                  | \$45,234    | 110-530906-635500<br>Child Substance Abuse            | (\$30,926)  |
| 110-530906-916350<br>ADVP                           | \$12,000    | 110-530906-635400<br>Adult Substance Abuse            | \$74,767    |
| 110-530906-911420<br>DD Services                    | (\$75,000)  | 110-530906-635100<br>Child Mental Health              | \$19,058    |
| 110-530906-915520<br>Contract SA Services           | \$3,681     | 110-530906-635000<br>Adult Mental Health              | \$174,292   |
| 110-530901-849090<br>Miscellaneous                  | \$1,704     | 110-530906-633105<br>CTSP                             | (\$214,728) |
| 110-530906-993030<br>LME Reserve                    | \$163,529   | 110-530906-622200<br>Adult DD Federal                 | (\$3,205)   |
| 110-530906-915610<br>CVBH Contract                  | \$52,500    | 110-530906-635012<br>CJPP Grant                       | \$5,385     |
| 110-530906-915950<br>CTSP Contracts                 | \$50,000    | 110-530902-635610<br>State LME Funding                | \$33,175    |
| 110-530901-991300<br>Mental Health Refund           | \$110,209   | 110-530906-633100<br>Mental Health Trust Fund         | \$52,500    |
| 110-530906-915180<br>Transitional Services Contract | \$150,000   | 110-530901-690101<br>MH Fund Balance Applied          | \$110,209   |
| 110-530906-915610<br>CVBH Contracts                 | \$100,000   | 110-530906-690101<br>MH Fund Balance Applied          | \$50,000    |
|   |             | 110-530906-690101                                     | \$150,000   |

|  |  |                         |           |
|--|--|-------------------------|-----------|
|  |  | MH Fund Balance Applied |           |
|  |  | 110-530906-690101       |           |
|  |  | MH Fund Balance Applied | \$100,000 |

b. Supplemental Appropriation for Duke Power McGuire Allocation for \$9,300 which will be used for audio visual equipment at the Emergency Operations Center. Appropriation as follows:

Appropriation Increase

Revenue

110-260060-870150 \$9,300.00  
Minor IT Equipment

110-260060-682200 \$9,300.00  
Emerg. Mgt. Grant/Duke Power

c. CVCC request for operating funds – they are closing \$45,483 in three capital projects and appropriating that same amount to help with some of the operating expenses for the new building at CVCC. Additionally, the current budget included \$200,000 to renovate the Newton Center (the old library next to the movie theater in downtown Newton) for a cosmetology school. When they started renovations, asbestos was discovered, so there is an appropriation request for \$36,000 for asbestos removal. Appropriation as follows:

**Supplemental Appropriation**

Increase 110-190050-690100 General Fund fund balance \$45,483  
110-710050-862100 CVCC Current Expense \$45,483

Increase 420-750100-690100 Capital Outlay fund balance \$36,000  
420-750100-862200 Newton Center Building \$36,000

d. Catawba County Schools requested a transfer of \$92,233 from Schools' Capital Outlay projects for a new chiller at Arndt Middle School. The school system requested that there be two chillers so there is a back up if one goes down and the current capital outlay budget for this project was \$131,000 -- \$92,233 short of the cost for the two chillers. They have asked to close out several projects in the amount of \$15,735 and the transfer of the remaining \$78,498 from funds set aside for future projects. Appropriation as follows:

**Supplemental Transfer**

From 420-750100-863200-31111-3-02 Fred T. Foard \$15,735  
420-750100-863200-31190-9-01 Future Projects 76,498

To: 420-750100-863200-31101-4-01 Arndt Chiller \$92,233

d. Sale of Surplus Property – sale of 1.01 acres off of State Road 1140 – Lewis Road (Parcel ID#3608-0269-7243. It was requested that this land be declared surplus and accept an offer from Richard L. Giles in the amount of \$4,200 (tax value \$4,100), subject to the upset bid process. Mr. Giles previously brought an adjacent piece of property a year ago. The County schools had no interest in the property even though it is across from Blackburn Elementary. When the Board accepts the offer, it starts the upset bid process, where the bid is advertised for 10 days and goes forward at that point if there are no other bids. The Board adopted the following resolution as part of the consent agenda:

**Resolution #**  
**Notice of Upset Bid - Real Property**  
**Parcel ID #3608-0269-7243**

WHEREAS, the County of Catawba owns certain property; located off of State Road 1140--Lewis Road as shown on a plat thereof in Plat Book 2237, Page 1699 in the office of the Register of Deeds for Catawba County, to which plat and the record thereof, reference is hereby made for more complete description, and

WHEREAS, North Carolina General Statute 160A-269 permits the County to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the County has received an offer to purchase the property described above, in the amount of \$4,200, submitted by Richard L. Giles; and

WHEREAS, Richard Lee Giles has paid the required 5 percent (5%) deposit on his offer;

WHEREAS, the Catawba County Board of Commissioners accepts the offer of \$4,200 or any higher, upsetting offer, subject to the upset bid procedure;

THEREFORE, the Catawba County Board of Commissioners resolves that:

1. The Catawba County Board of Commissioners authorizes the sale of the property described above through the upset bid procedure of North Carolina General Statute 160A-269.
2. The Purchasing Agent shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Purchasing Agent within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the Purchasing Agent shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the Purchasing Agent shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received.
5. A qualifying higher bid is one that raises the existing offer by not less than 10 percent (10%) of the first \$1,000 of that offer and 5 percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of 5 percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The County will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The County will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that the buyer must pay with cash, cashier's check or certified check at the time of closing.
8. The County reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject all bids at any time.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate County officials are authorized to execute the instruments necessary to convey the property.

This the 16th day of October, 2006.

Chair Barnes asked if there was any item the Commissioners would like broken out of the consent agenda. None were requested. Commissioner Barger made a motion to approve the consent agenda. The motion carried unanimously.

10. Departmental Reports:
  - a. Cooperative Extension:

N. Fred Miller, Cooperative Extension Director, came forward to present a revised Memorandum of Understanding between Catawba County and the North Carolina Cooperative Extension. He noted that Catawba County was one of the first counties in the state to consider the new memorandum. The Memorandum of Understanding (MOU) serves as the document that defines the cooperative relationship created between local, state, and federal governments committed to bringing research-based knowledge from NC A&T State University and NC State University to the citizens of Catawba County. Due to changing situations within the cooperating partners, it was deemed necessary to review this document to ensure it provided an accurate reflection of the current relationship between the Board of County Commissioners and the North Carolina Cooperative Extension Service.

To accomplish this review, a team representing the North Carolina Association of County Commissioners and North Carolina Cooperative Extension (NCCE) met regularly for the past two years and collaboratively updated the document. Tom Lundy was a member of the review team. This review resulted in a more effective MOU that is reflective of the strong collaborative partnership existing between Catawba County and North Carolina Cooperative Extension.

A significant change in the MOU is that it begins to move all Cooperative Extension employees to one uniform payroll system. Currently payrolls for Catawba County's Extension employees are administered through both the state and county systems based on each partner's percentage share. A uniform payroll system will reduce benefit and policy disparities between NCCE employees across the state. However, counties will retain the option to control their portion of future salary increases. As a result of this change, all Catawba County Cooperative Extension new hires (hired after January 1, 2007) will be paid through NCSU via a "send-in" process. In this arrangement, the county will be invoiced by NCCE for the county's share of salary and benefits. Each month employees will receive a single check containing their total compensation. The Area Agricultural Agents (Jeff Carpenter, Lara Worden, and Dr. Josh Beam) are already paid via "send-in" and experience with this process has been positive.

Current Extension employees will be given the option of converting to "send-in" during two specified "windows" or continuing to be paid by both the county and NCCE. The County's Personnel Department has developed a comparison of benefits to assist employees in making this decision. It should be noted that the transitional windows will be closed after October, 2007 and will not be available again unless the total number of non-send-in employees drops below fifty (50) as determined annually on March 1. If and when this occurs, County Boards will be notified of the need to switch these remaining employees to "send-in."

Another significant change is the policies of the State of North Carolina will be used in granting and administering leave related to the earning rates, transfer policies, payout computation and timing, and administration of vacation, sick, civil, community involvement, military, Family and Medical Leave, Family Illness Leave, leaves of absence, and other approved leave programs for Cooperative Extension personnel. This change will resolve transfer of leave issues encountered by Extension employees who transfer to Extension jobs in other counties. It will also correct problems that some employees encounter at retirement due to differences between county and state leave administration.

Although this agreement is between the Board of County Commissioners and North Carolina Cooperative Extension, the Board has the option to delegate oversight and administration of the MOU to the County Manager as designee, which Catawba County has done in the past.

County Manager Lundy commented that it had been a long, arduous process and agreed with Mr. Miller that the result was a compromise. Mr. Lundy had voiced his concern that if the State is not careful in its attempt to standardize things across the state, it was going to remove the contact that Catawba County has established with Cooperative Extension – The County currently has a great relationship with Cooperative Extension- and he said the more the state moves to a system where it is just writing a check each month will result in a long term cost. He said he was wary in the attempt to be efficient and standard, there is a loss of relationships that have been established. He did say they all had a good group to work with on the memorandum which resulted in a good compromise.

Mr. Miller then introduced Dr. Debbie Crandall, District Director of the North Carolina Cooperative

Extension. Dr. Crandall praised County Manager Lundy's efforts and leadership in this process and his passion for County employees.

Commissioner Beatty made a motion to approve the Memorandum of Understanding and delegate oversight and administration of the MOU to the County Manager. The motion carried unanimously.

b. Social Services:

Karen Heffner, Social Work Supervisor III, came forward to present the Work First County Plan for 2007-2009.

In 1996, Congress ended the national welfare program known as AFDC (Aid to Families with Dependent Children) and crafted legislation to allow states to implement their own welfare programs. This federal devolution of authority enabled the North Carolina General Assembly to go even further with welfare reform. The legislature took the next step; allowing counties to compete for Electing County status – in essence offering a limited number of counties the opportunity to have greater control over local welfare policies, as well as greater control over available funding.

On July 17, 2006, Catawba County Commissioners voted to pursue "Electing County" status and appointed a committee to assist in the development of the county's Work First Plan.

A copy of the plan is attached. The philosophy of the Work First Plan incorporates quality values and organizational standards that reflect respect for the worth and dignity of each and every citizen. Catawba County's plan takes Personal Responsibility to the next level, as well as modeling the plan after the 'real world of work.' It is our plan to have long-term successful family and child well-being outcomes for the entire Work First population.

Catawba County will follow criteria established and implemented by the State for the following:

- Age limits for children
- Payment levels
- Benefit Calculation
- Countable income
- Resources requirement (limit and countable items)
- Time limits and Extensions

Catawba County's Plan is different from the state in the following ways:

- When siblings (half brothers/half sisters) have been placed with one of the sibling's relative by Social Services and the relative meets the state's definition of 'kinship' for any one of the children, the adult can apply for cash assistance for the entire sibling group.
- A child receiving SSI or Adoption Assistance is not considered an eligible child since his/her financial needs are already being met and they are not included in the assistance unit. If there is no child in the assistance unit, the parent is not eligible for Work First assistance.
- Applicant must cooperate with Child Support and the applicant must register with First Stop if not already employed.
- *Parents or caretakers who, without good cause, do not comply/cooperate with Child Support Enforcement, the Mutual Responsibility Agreement, substance abuse treatment, or have intentional program violations will make the entire family ineligible for a Work First Family payment for one month or until compliance, whichever is later.*
- Applicant must be assessed for Economic Literacy within 12-calendar days of applying for Work First.
- All Work First applicants and recipients referred to Vocational Rehabilitation must complete the application and comply with all recommendations.
- Failure to attend the Success for Families Team meeting, if required, without good cause will result in one month of ineligibility.
- Caretakers in the child-only cases must be screened for Substance Abuse/Mental Health issues and comply if treatment is required.
- All cases will be reviewed every 6 months.



- Work First citizens who quit their jobs, refuse to accept a bona fide job offer or request a reduction in hours will be ineligible for assistance
- To encourage successful participation, when a participant completes their monthly-required hours and reports it timely they will be eligible for a reward (i.e. gift card).

Innovative Strategies of Plan are:

- Legal Services for Child-Only Cases
- Economic literacy efforts with Cooperative Extension, Martin Starnes Associates, and CVCC
- Tax preparation
- Faith Community Task Force on Poverty
- Job retention bonus

"Electing County" status continues to be preferred for Catawba County, because it allows greater flexibility in administering the program and possibilities to be financially advantageous. The community's economic conditions are such that more citizens should be able to enter or retain employment; therefore, less demand on cash assistance. If fewer people depend on cash assistance, more funds are available for services. The risks appear minimum; therefore, reasonable to continue as an "Electing County".

Chair Barnes noted that the County still had to compete to be an Electing County and Ms. Heffner said it was still advantageous to be so. Commissioner Lynn Lail said she was very proud of Social Services and what they have accomplished in the County. Commissioner Barger made a motion to approve the Work First Plan for submission to the North Carolina Department of Human Resources and congratulated Social Services for a job well done. The motion carried unanimously.

c. Emergency Services:

Bryan Blanton, EMS Manager, came forward to present proposed amendments to the Catawba County Code, Chapter 14 Emergency Management and Services, Article V Ambulance Franchises. In 1995, the County adopted an Ambulance Franchise Ordinance which provided that the County be the authorizing agency for enforcing and regulating issues related to ambulance operations within the County. This ordinance was based on state statutes which were adopted in 1979.

In 2001, most of the state statutes relating to EMS were amended. A goal of the changes was to allow counties to become the regulating agency for the operation of ambulance services instead of the State. The State then rewrote many of the rules and regulations related to ambulance services. On November 30, 2003, Catawba County was approved as a Model EMS System. Currently, the County is one of only ten such systems in the State. In order to ensure the County's citizens receive the best ambulance services possible, the County's Ambulance Franchise Ordinance needs to be amended to reflect the changes in state law as well as the latest rules and regulations. These amendments will also make it necessary for any party interested in providing ambulance services in the County to meet the same high standards for a model EMS system which are currently in place.

The Ordinance reads as follows:

**Ordinance No: 2006-12**

**AMENDMENT TO THE CATAWBA COUNTY AMBULANCE FRANCHISES ORDINANCE**

**BE IT ORDAINED** that the Catawba County Code of Ordinances, Chapter 14, Article V, Emergency Management and Services, Ambulance Franchises is hereby amended, which said article reads as follows:

**ARTICLE V. AMBULANCE FRANCHISES\***

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**\*State law references:** Regulation of ambulance services, ~~G.S. 131E-155 et seq.~~ **Article 7, NCGS 131E-155 thru 131E-162 and any amendment**; authority to franchise ambulance services, G.S. 153A-250.

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**Sec. 14-136. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Ambulance* means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation **of patients** on the streets or highways, waterways or airways of this State. ~~of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.~~

~~Ambulance provider~~ **EMS provider** means an individual, **a** firm, corporation or association which engages **in** or professes to engage **in the business or service of transporting patients in an ambulance provide emergency medical services.**

*Approved* means approved by the state medical care commission pursuant to the applicable rules and regulations promulgated under G.S. 143B-165.

*Communications center* means the county communications center which provides a system that coordinates the many interdependent agencies and facilities involved in emergency response care.

*County* means the county board of commissioners or its designated representative.

**Department** means the North Carolina Department of Health and Human Services

~~Dispatcher~~ means ~~a person who is available at all times to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies and emergency medical facilities of any existing or threatened emergency.~~

**Emergency medical dispatcher** means an emergency telecommunicator who has completed an educational program approved by the Department and has been credentialed as an emergency medical dispatcher by the Department.

~~Emergency and emergency transportation service~~ mean ~~the use of an ambulance, its equipment and personnel to provide medical care and transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation or physiological or psychological illness or injury.~~

**Emergency medical services** means services rendered by emergency medical services personnel in responding to improve the health and wellness of the community and to address the individual's need for emergency medical care within the scope of practice as defined by the North Carolina Medical Board in accordance with G.S. 143-514 in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

**Emergency medical services personnel** means all the personnel defined herein as an **emergency medical dispatcher, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-paramedic, emergency medical services instructor or medical responder.**

*Emergency medical technician (EMT)* means an individual who has completed a ~~training~~ **educational** program in emergency medical care ~~at least equal to the National Standard Training Program for Emergency Medical Technicians as defined by the United States Department of Transportation and has been certified as an emergency medical technician by the department~~ approved by the Department and has been credentialed as an emergency medical technician by the Department.

*Emergency medical services instructor* means an individual who has completed educational requirements approved by the Department and has been credentialed as an emergency medical services instructor by the Department.

*Emergency medical technician-intermediate* means an individual who ~~performs emergency care on the basic level in addition to administering intravenous medication as designated by the state~~ **has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-intermediate by the Department.**

*Emergency medical technician-paramedic* means ~~a medical professional who administers emergency medical care on the advanced life support level as designated by the state~~ **an individual who has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-paramedic by the Department.**

*First responder* **agency** means an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

*Franchise* means a permit issued by the county to a person, **corporation or other legal entity** for the operation of an ambulance service.

*Franchisee* means any person, **corporation or other legal entity** having been issued a franchise by the county for the operation of an ambulance service.

*License* means any driver's license or permit to operate a motor vehicle issued under or granted by the laws of the state.

*Medical responder* means an individual who has completed ~~a training program in emergency medical care and first aid approved by the state department of human resources and has been certified as a medical responder by the state department of human resources, office of emergency medical services~~ **an educational program in emergency medical care and first aid approved by the Department and has been credentialed as a medical responder by the Department.**

*Nonemergency transportation services* means the operation of an ambulance for any purpose other than transporting emergency patients.

*Operator* means a person in actual physical control of an ambulance which is in motion or which has the engine running.

*Owner* means any person who owns an ambulance.

*Patient* means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated ~~while being transported to or from a medical facility.~~

*Person* means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including any governmental agency other than the United States.

*Rescue* means a situation where the victim cannot escape an area through the normal exit or under his own power.

*Secondary ambulance provider* means the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.

(Code 1995, § 339.01)

**Cross references:** Definitions generally, § 1-2.

#### **Sec. 14-137. Enforcement.**

The county ~~department of emergency medical services~~ **division of emergency medical services** shall be the enforcing agency for the regulations contained in this article. Such office will:

- (1) Receive all franchise proposals from potential providers.
- (2) Study each proposal for conformance to this article.
- (3) Recommend to the county manager and board of commissioners the award of the franchise to the applicant submitting the best proposal.
- (4) Inspect the premises, vehicles, equipment, and personnel of franchisees to ensure compliance to this article and perform any other inspections that may be required.

- (5) Recommend to the county manager and board of commissioners the temporary or permanent suspension of a franchise for noncompliance with the franchise terms of this article; recommend the imposition of misdemeanor or civil penalties as provided ~~therein~~ **herein**.
- (6) Ensure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended.
- (7) Receive monthly reports from ambulance services and consolidate the reports into a quarterly summary for review by the county.
- (8) Receive complaints from the public, other enforcing agencies, and ambulance services regarding franchise infractions; ~~review the complaint with the county manager; obtain~~ **take** corrective action ~~with the approval of the county manager.~~
- (9) ~~With the approval of the county manager,~~ **R**ecommend improvements to the county which will ensure better medical transportation.
- (10) Maintain all records required by this article and other applicable county regulations.
- (11) Perform such of the functions of this section as may be requested by any municipality within the county.

(Code 1995, § 339.02)

#### **Sec. 14-138. Inspection of records, premises, and equipment.**

Under this article the county may inspect a franchisee's records, premises, and equipment at any time in order to ensure compliance with this article and any franchise granted under this article.

(Code 1995, § 339.03)

#### **~~Sec. 14-139. Addenda.~~**

~~The board of commissioners may, through appropriate actions, amend or expand this article to include other emergency departments or agencies as deemed necessary.~~

~~(Code 1995, § 339.04)~~

#### **Sec. 14-140. Required.**

- (a) No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of emergency and/or nonemergency transportation of patients within the county unless the person holds a valid permit for each ambulance used in such business or service issued by the state department of ~~human resources~~ **Health and Human Services**, office of emergency medical services, and has been granted a franchise for the operation of such business or service by the county pursuant to this article.
- (b) No person shall drive an ambulance, attend a patient in one, or permit one to be operated when transporting a patient within the county unless he holds a currently valid ~~certificate~~ **credential** as a medical responder, emergency medical technician, EMT-intermediate or EMT-paramedic issued by the state department of ~~human resources~~ **Health and Human Services**, office of emergency medical services. ~~State law changed the certification title "ambulance attendant" to "medical responder."~~
- (c) No franchise shall be required for the following:
  - (1) Any entity rendering assistance to a franchised ambulance service in a major catastrophe, mutual aid or emergency with which the services franchised by the county are insufficient or unable to cope **upon request of the County**;
  - (2) Any **licensed** entity operated from a location or headquarters outside of the county in order to transport patients who are picked up beyond the limits of the county to ~~facilities located~~ **a location** within the county ~~for transporting to locations outside the county~~ **or where a licensed entity operated**

from a location or headquarters outside the county transports a patient from one of the two county hospitals to a location outside the county; or

~~(3) Ambulances owned and operated by an agency of the United States government.~~

(Code 1995, § 339.05)

#### **Sec. 14-141. Application.**

Application for a franchise to operate ambulances in the county shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the county and shall contain the following:

(1) The name and address of the ambulance provider and of the owner of the ambulance.

(2) The trade or other fictitious name, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.

(3) A resume of the training and experience of the applicant in the transportation and care of patients.

(4) ~~(3)~~ A full description of the type and level of service to be provided, including the location of the place from which it is intended to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched; an audited financial statement of the applicant as it pertains to the operations in the county, the financial statement to be in such form and in such detail as may be required by the county.

(5) A description of the applicant's capability to provide 24-hour coverage, seven days per week, for the district covered by the franchise applied for and an accurate estimate of the minimum and maximum response times to calls within such district.

~~(4) A full description of how each component listed in 10A NCAC 13P .0201 and 10A NCAC 13P .0202 are being accomplished.~~

(6) Any information the county shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance services in the county in accordance with the requirements of state laws and this article.

(Code 1995, § 339.06)

#### **Sec. 14-142. Procedures for grant.**

(a) Prior to accepting applications for the operation of an ambulance service, the board of commissioners may designate specific service areas as franchise districts. The districts will be established using criteria that include geographic size, road access, the location of existing medical transportation services, population, and response time. The county shall have the authority to redistrict or rearrange existing districts at any time at its discretion.

(b) An applicant may apply for a franchise to operate either emergency transportation service or nonemergency transportation service or both. If both types of service are to be provided, separate applications must be filed for each type.

(c) Upon receipt of an application for a franchise, the county shall schedule a time and place for hearing the applicant. Within 30 days after hearing, the county shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.

(d) A franchise may be granted if the county finds that:

(1) The applicant ~~shows a reasonable effort to meet~~ **all applicable state standards and, standards outlined in this article, and standards required by the Catawba County Emergency Medical Services System Plan.**

(2) The proposed service will fit within the existing service so as not to adversely affect the level of service or operations of other franchisees to render service.

(3) A need exists for the proposed service to improve the level of ambulance services available to residents of the county, and this is a reasonable and cost effective manner of meeting the need.

(Code 1995, § 339.07)

**Sec. 14-143. Conditions of issuance.**

(a) The county may issue a franchise to an ambulance provider, to be valid for a term to be determined by the county, provided that either party, at its option, may terminate the franchise upon 60 days' prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.

(b) Upon suspension, revocation, or termination of a franchise granted under this article, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation, or termination of a driver's license or attendant's certificate or emergency medical technician's certificate, such person shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service or attend an ambulance. The franchisee shall not permit such an individual to drive an ambulance or provide medical care in conjunction with the ambulance service.

(c) Each franchised ambulance service shall comply at all times with the requirements of this article; the franchise granted under this article; all applicable state and local laws relating to health, sanitation, safety, equipment, and ambulance design; and all other laws and ordinances.

(d) Prior approval of the county shall be required where ownership or control of more than ten percent of the right of control of the franchisee is acquired by a person or group of persons acting in concert, none of whom own or control ten percent or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the county shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the county.

(e) Any change of ownership of a franchised ambulance service without the approval of the county shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this article as upon original franchising.

(f) No franchise may be sold, assigned, mortgaged, or otherwise transferred without the approval of the county and a finding of conformance with all requirements of this article as upon original franchising. Each franchised ambulance service, its equipment and the premises designated in the application and all records relating to its maintenance and operation, as such, shall be open to inspection by the state, the county, or their designated representatives.

(g) A franchise may not be defaced, removed, or obliterated.

(Code 1995, § 339.08)

**~~Sec. 14-144. Standards for drivers and attendants.~~**

~~Standards for drivers and attendants as developed by the state medical care commission as requirements for certification of medical responders and emergency medical technicians pursuant to G.S. 143-507--143-520 shall be applied, and the standards are incorporated in this article by reference.~~

~~(Code 1995, § 339.09)~~

**~~Sec. 14-145. Standards for vehicles and equipment.~~**

~~Ambulance vehicle and equipment standards as developed by the state medical care commission pursuant to G.S. 143-507--143-520 shall be applied, and the standards are incorporated in this article by reference.~~

~~(Code 1995, § 339.10)~~

**~~Sec. 14-146. Standards for communications.~~**

~~(a) Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of the county to each hospital emergency department in the county and to the communications center of the sheriff's department. Further, each ambulance vehicle's two-way communications capabilities must be compatible with all hospitals' emergency departments to which transportation of patients is made on a regular or routine basis anywhere within the state.~~

~~(b) Each ambulance provider shall maintain current authorizations or Federal Communications Commission (FCC) licenses for all frequencies and radio transmitters operated by that provider. Copies of all authorizations and licenses shall be on display and available for inspection per the Federal Communications Commission's rules and regulations.~~

~~(c) Each base of operations must have at least one open telephone line. Telephone numbers must be registered with each law enforcement agency and communications center in the county.~~

~~(d) Each ambulance shall be dispatched from the county communications center of the sheriff's department.~~

(Code 1995, § 339.11)

**Sec. 14-147. Insurance.**

No ambulance franchise shall be issued under this article, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the county unless the franchisee has at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the state, for each and every ambulance owned and or operated by or for the ambulance service providing for the payment of damages as follows:

(1) In the sum of ~~\$500,000.00~~ **\$2,000,000.00** for injury to or death of individuals in accidents resulting from any cause for which the owner of the vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agency; and

(2) In the sum of ~~\$50,000.00~~ **\$2,000,000.00** for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the state or as approved by the county.

(Code 1995, § 339.12)

**~~Sec. 14-148. Records.~~**

~~Each ambulance franchisee shall maintain the following records:~~

~~(1) *Record of dispatch.* The record of dispatch shall show the time that:~~

- ~~a. The call was received;~~
- ~~b. The ambulance was dispatched;~~
- ~~c. The ambulance arrived on the scene;~~
- ~~d. The ambulance arrived at its destination;~~
- ~~e. The ambulance was in service; and~~
- ~~f. The ambulance returned to base.~~

~~(2) *Trip record.* The trip record shall state all information required in subsection (1) of this section in addition to information on a form approved by the county. The trip record shall be so designed as to provide the patient with a copy thereof containing all required information. A copy of the trip record may serve as a receipt for any charges paid.~~



~~(3) Daily report log. The daily report log shall be maintained for the purpose of identifying more than one person transported in any one day.~~

~~(4) Daily driver and attendant checklist and inspection report. The daily driver and attendant checklist and inspection report shall list the contents and a description of operations for each vehicle, signed by the individual verifying vehicle operations and equipment.~~

(Code 1995, § 339.13)

#### **Sec. 14-149. Rates and charges.**

(a) Under this article each franchisee shall submit a schedule of rates to the county for approval and shall not charge more or less than the approved rates without specific approval by the county.

(b) No ambulance service shall attempt to collect rates on emergency calls until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the ambulance service, but such service may attempt to collect rates with the family or guardian of the patient once the patient is in the process of receiving medical attention.

(c) On nonemergency calls or calls where a person requires transportation to a nonemergency facility, attempts to collect payment can be made before the ambulance begins its trip.

(Code 1995, § 339.14)

#### **Sec. 14-150. Violations.**

It shall be unlawful for any person to provide ambulance services or to operate ambulances within the territorial limits of the county without having been granted a franchise by the board of commissioners to do so. Further, this article shall not apply to ambulances based outside of the county, except any such ambulance may not receive a patient within this county for transportation to a location within this county without a franchise to operate within the county.

(Code 1995, § 339.15)

#### **Sec. 14-151. Penalty.**

(a) Any person, firm or corporation who violates any provision of ~~this Article section 14-39~~ shall be subject to ~~all the penalties provisions set forth in section 1-14~~ **authorized by section 14-39 and any other applicable local, state or federal law.**

~~(b) Except as provided in section 14-71 any person violating any prohibition or restriction imposed by a proclamation authorized by article III of this chapter shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days, as provided by section 1-14.~~

~~(c)~~ **(b)** A violation of any provision of this chapter for which a specific penalty has not been provided shall be deemed guilty of a misdemeanor and punished as provided in section 1-14.

(Code 1995, title 33)

Secs. 14-152--14-176. Reserved.

This the 16<sup>th</sup> day of October, 2006.

Chair Barnes said the Board was proud of the County EMS Department. Commissioner Beatty made a motion to approved the proposed amendments. The motion carried unanimously.

11. Other Items of Business. None.

12. Attorneys' Report. None



13. Manager's Report. None.

14. Adjournment. Prior to adjournment Chair Barnes noted the return of Mr. Lundy and staff from Albania. Mr. Lundy updated the Board on the USAID project which had been in place since 2001. He said the first project was a two year effort and USAID wanted to renew it and focus on solid waste. The focus on the most recent visit was two-fold – one was to look into the possibility of establishing a construction/demolition landfill for the city and they met with contractors since the proposal was for the private sector to do it with the city franchise to be in control of the program. He said the trick would be how to structure the program so that the private section would get return on their investment – so they were looking at issues like requiring the city to use recycled materials in their road work and in their construction requiring contractors to use a portion of recycled material to guarantee the contracted waste stream. The second focus was on recycling and trying to get this effort going and had identified a three block area where this would be implemented. Mr. Lundy said the project runs through September and they were scheduled to be back in Albania in January.

Chair Barnes reminded everyone that November 4, 2006 was the County's Household Hazardous Waste Event which would take place at the LP Frans Stadium in Hickory.

Chair Barnes adjourned the meeting at 8:28 p.m.

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Katherine W. Barnes, Chair  
Board of Commissioners

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Barbara E. Morris, County Clerk